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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,474	10/20/2003	Bruce P. Konen	1110-0462	7873
7590 11/17/2006			EXAMINER	
Joel H. Bock COOK, ALEX, McFARRON, MANZO, CUMMINGS & MEHLER, LTD. 200 West Adams Street - Suite 2850 Chicago, IL 60606			FLORES SANCHEZ, OMAR	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 11/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,474

Applicant(s)

KONEN, BRUCE P.

Examiner

Omar Flores-Sánchez

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-12,14-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 8 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on 09/05/06.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Ford et al. (2,794,463).

Saltus-Werk discloses the invention substantially as claimed including a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a first gear 13, a second gear 15, a drive gear 18 and a main shaft 16. Saltus-Werk does not show a torque arm with first, second and third portions adjacent to the handle; a torque arm clamp and an attachment element with a hook. However, Ford et al. teaches the use of a torque arm (68 and 70) with first, second and third portions adjacent to the handle (see Fig. 1), a torque arm clamp 112 and hook (70, 86 and 92) for the purpose of longitudinally aligning the drill. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the torque arm, the torque arm clamp and the hook as taught by Ford et al. in order to obtain a better longitudinally alignment of the drill.

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Regarding claim 5, Ford et al. shows the torque arm slidably connected to the torque arm (see Fig. 4, where posts (102 and 104) slide relative to the clamp 112).

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Ford et al. (2,794,463) as applied to claim 1 above, and further in view of Rudolf et al. (6,155,916).

The modified device of Saltus-Werk discloses the invention substantially as claimed except for a stabilizing handle that can be attached to left and right sides. However, Rudolf et al. teach the use of a stabilizing handle 30 that can be attached to left and right sides (see Fig. 1, col. 5, lines 64-67; and col. 6, lines 1-3) for the purpose of allowing right and left hand operators to use the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified Saltus-Werk's device by providing the stabilizing handle as taught by Rudolf et al. in order to obtain a device that can be used by right and left hand operators.

5. Claims 9, 10, 15, 16, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Carroll (2,695,667).

Saltus-Werk discloses the invention substantially as claimed including:

- Claim 9; a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a plurality of gears (13,15, 18, 20 and 22) and a main shaft 16.
- Claim 10; a torque arm 5.

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- Claim 15; the drive shaft 11 is transverse to the main shaft 16.
- Claim 16; a segmented gear 23.

Saltus-Werk does not show only first, second and drive gears. However, Carroll teaches the use of first, second and drive gears (44, 48 and 50) for the purpose of providing a small, inexpensive and highly efficient tool. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's gears by providing the first, second and drive gears as taught by Carroll in order to obtain a device that provides a small, inexpensive and highly efficient tool. Also, Carroll teaches the cutting tool connected to the housing at a location, which is laterally spaced from the drive shaft 40 (see Fig. 1 and 5). Regarding claim 22; Carroll teaches the second gear and the drive gear are mounted to the main shaft 46 (see Fig. 5).

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Carroll (2,695,667) as applied to claim 9 above, and further in view of Rudolf et al. (6155916).

The modified device of Saltus-Werk discloses the invention substantially as claimed except for a stabilizing handle that can be attached to left and right sides. However, Rudolf et al. teaches the use of a stabilizing handle 30 that can be attached to left and right sides (see Fig. 1, col. 5, lines 64-67; and col. 6, lines 1-3) for the purpose of allowing right and left hand operators to use the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified Saltus-Werk's device by providing the

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stabilizing handle as taught by Rudolf et al. in order to obtain a device that can be used by right and left hand operators.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Carroll (2,695,667) as applied to claim 9 above, and further in view of Hirabayashi (5642566).

The modified device of Saltus-Werk discloses the invention substantially as claimed except for a brush. However, Hirabayashi teaches the use of a brush 8 for the purpose of maintaining dust away from the gears. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the brush as taught by Hirabayashi in order to maintain dust away from the gears.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Carroll (2,695,667) as applied to claim 9 above, and further in view of Zupancic (4,774,848).

The modified device of Saltus-Werk discloses (Fig. 1-25) the invention substantially as claimed except for three bearings. However, Zupancic teaches the use of three bearings (15, 16 and 58) for the purpose of having a structure, which is stronger. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the three bearings as taught by Zupancic in order to obtain a device that is stronger and minimizes the possibility of the drive gear bending out of engagement with the gear.

9. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Zupancic (4,774,848).

Saltus-Werk discloses the invention substantially as claimed including: a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a first gear 13, a second gear 15, a drive gear 18 and a main shaft 16. Saltus-Werk does not show at least three bearings. However, Zupancic teaches the use of three bearings (15, 16 and 58) for the purpose of having a structure, which is stronger. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the three bearings as taught by Zupancic in order to obtain a device that is stronger and minimizes the possibility of the drive gear bending out of engagement with the gear. Also, Zupancic teaches the bearing 16 disposed between the second and drive gears (25 and 59) and intermediate the first and second bearings (see Fig. 5).

Allowable Subject Matter

10. Claims 8 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patent Examiner
11/13/06